

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 1028 - HB 1353

March 24, 2011

SUMMARY OF BILL: Defines “sharia organization” as any two or more persons conspiring to support, or acting in support of, sharia or in furtherance of the imposition of sharia within any state or territory of the United States. Establishes a mechanism for the Attorney General and Reporter (AG) to designate an entity as a sharia organization. Requires the AG to confidentially notify the Governor, Speakers, Speaker Pro Tem, Speaker Pro Tempore, Deputy Speaker, the Majority and Minority Leaders of the Senate, and the House of Representatives seven days prior to making such designation. Requires the AG to publish such designation in a daily newspaper of general circulation seven days after providing such notification.

Requires the Secretary of State to file such designations in the same manner as agency rules and to publish such designation on the Department’s website and in the monthly administrative register in a separate section devoted to such designations. Directs that designation will cease to have effect upon an act of disapproval by the General Assembly. Upon such notification, the AG may require financial institutions doing business in Tennessee, that possess or control any assets of any Sharia organization, to block all financial transactions involving those assets until further directive from either the AG, an act of the General Assembly, or court order. Requires any financial institution in Tennessee that becomes aware of its possession of, or control over, any funds in which a sharia organization or its agent has an interest, to retain possession and control over such funds and report to the AG the existence of such funds in accordance with regulations issued by the AG.

Creates a civil penalty in the amount of \$50,000, or twice the amount retained by any financial institution in Tennessee for any institution that knowingly fails to comply with these directives. Establishes Judicial Review of an amended designation or a determination in response to a petition for revocation in the Tennessee Court of Appeals. Authorizes the Court to set aside such designations or determinations if the Court finds the presence of the factors enumerated in the provisions of the bill.

Creates a Class B felony offense for any person who knowingly provides, or attempts or conspires to provide material support or resources to a designated sharia organization. Violation is punishable by fine, imprisonment of not less than fifteen years, or both. If death of another results from such violation, the offense is elevated to a Class A felony, punishable by imprisonment for life, or life without the possibility of parole.

Authorizes the AG, upon belief that any person is engaged in, or is about to engage in, any act that constitutes a violation of the *Material Support to Designated Entities Act of 2011*, to initiate civil action in a circuit court of Tennessee. Authorizes any individual injured in the individual's person, property, or business by any offense established under this *Act* or to the individual's estate, survivors, or heirs, to sue in a circuit court in Tennessee and recover three times the damages sustained, and the cost of the suit, not limited to attorney's fees.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$88,600/Incarceration*

Assumptions:

- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2011 is \$60.62. The additional operating cost for a mandatory 15-year (5,478.75 days) sentence is \$332,121.83 ($\$60.62 \times 5,478.75$ days).
- According to the U. S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one additional Class B felony offender every five years. The cost in the tenth year per offender is \$221,414.55 ($60.62 \times 3,652.50$ days). The annualized time served per conviction is 730.50 days (0.20 annual number of convictions \times 3,652.50 days served). The annualized cost per conviction is \$44,282.91 ($\60.62×730.50 days).
- Estimate assumes one additional offender every five years will receive a life sentence (25 years) for causing the death of another person. The cost at 25 years is \$553,536.38 ($\$60.62 \times 9,131.25$ days). The cost in the tenth year per offender is \$221,414.55 ($60.62 \times 3,652.50$ days). The annualized time served per conviction is 730.50 days (0.20 annual number of convictions \times 3,652.50 days served). The annualized cost per conviction is \$44,282.91 ($\60.62×730.50 days).
- The total additional operating cost is \$88,565.82 ($\$44,282.91 + \$44,282.91$).
- Investigations will be conducted by the Office of Homeland Security. Any additional costs for such investigations can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Estimate assumes a minimal number of organizations will be designated as sharia organizations resulting in few notifications, revocations, and hearings. The AG's office will not require additional resources to carry out the additional duties required by the proposed bill.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenders is negligible. There will not be a significant increase in state revenue as a result.

- According to the Administrative Office of the Courts, this bill would potentially bring new cases into the criminal and civil trial and appellate courts in the state. However, such potential cases can be accommodated within existing resources without an increased appropriation or reduced reversion.
- According to the Department of State, there will be no fiscal impact on its Department.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/jdb